

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP No.623 OF 2022

Antrayami Sahoo and another* *Petitioners

Mr. Manoranjan Mishra, Advocate

-versus-

Babaji Sahoo and another* *Opp. Parties

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

19.07.2022

Order No.

1. This matter is taken up through Hybrid mode.
2. Order dated 12th May, 2022 (Annexure-5) passed by learned Senior Civil Judge, Pattamundai in CS No.190 of 2021 is under challenge in this CMP, whereby an application under Section 10 CPC filed by Opposite Parties has been allowed.
3. Mr. Mishra, learned counsel for the Petitioners submits that CS No.190 of 2021 has been filed by the present Petitioners for permanent injunction simplicitor in respect of Hal Consolidation Plot Nos. 13, 15, 16 and 17 under Hal Khata No.318 to an extent of Ac.0.31 decimal in mouza Sanajaria under Pattamundai tahasil in the district of Kendrapara. Opposite Parties have also filed CS No.339 of 2021 claiming right, title and interest in respect of the aforesaid plot along with other properties and for other reliefs. It is his submission that although the Petitioners and Opposite Parties are common in both the suits but the property involved are substantially different and distinct. Along with the present Petitioners and

Opposite Parties, who are common parties in both the suits, there are several other parties in CS No.339 of 2021 filed by the Opposite Parties. Consolidation Plot Nos. 12, 13, 14, 15, 16, 17 and 247 are the subject matter of dispute in CS No.339 of 2021. Thus, it cannot be said that the parties are the same in both the suits. The properties are also not the same in both the suits. Learned trial Court, without considering the same, allowed the petition under Section 10 CPC staying further proceedings of CS No.190 of 2021 till disposal of CS No.339 of 2021. Hence, this CMP has been filed for the aforesaid relief. Mr. Mishra, learned counsel for the Petitioner placed reliance on a decision of this Court in the case of **Kanaka Sahu Vs. Krushna Chandra Sahu and others**, reported in 2011 (II) OLR 142 submits that the petition under Section 10 CPC ought to have been rejected.

4. Upon considering the submission of learned counsel for the Petitioners, it is apparent that Plot Nos. 13, 15, 16 and 17 are common in both the suits. Further, the Petitioners and the Opposite Parties are common in both the suits. CS No.339 of 2021 has been filed by the Opposite Parties for title and other reliefs, whereas CS No.190 of 2021 filed by the present Petitioners for permanent injunction. The question of passing of decree of permanent injunction shall depend upon declaration of the title in respect of the property involved in CS No.190 of 2021, which is also the subject matter of dispute in CS No.339 of 2021 along with other properties, I find no infirmity in the impugned order passed by learned Senior Civil Judge, Pattamundai directing stay of other proceeding, i.e., CS No.190

of 2021 filed for permanent injunction till disposal of CS No.339 of 2021 filed for decree of title and other reliefs.

5. In that view of the matter, the CMP being devoid of any merit, stands dismissed.

(K.R. Mohapatra)
Judge

s.s.satapathy

